

§ 3560.207 Annual adjustment factors for Section 8 units.

(a) *General.* For rental units receiving project-based Section 8 assistance, the Agency will review rents annually without regard to HUD's automatic annual adjustment.

(b) *Establishing rents in housing with HUD rent assistance.* Borrowers will set note and basic rents for housing receiving HUD project based Section 8 assistance, as specified in § 3560.202(c)(3).

(1) Borrowers must notify the Agency of any HUD rent changes.

(2) If allowed by the interest credit agreement, the borrower will remit the amount collected in excess of the basic rent up to the note rent to the Agency as overage.

(3) When HUD contract rents exceed note rents, borrowers must deposit HUD funds equal to the difference between the Agency approved note rent and the HUD approved rent into the reserve account for the housing project.

(c) *Excess HUD rents.* When permitted by the Agency interest credit agreement, the Agency may reduce or cancel the interest credit on the housing, if excess HUD rents deposited in the reserve account result in the reserve account being funded beyond the fully funded level approved by the Agency.

§ 3560.208 Rents during eviction or failure to recertify.

(a) *Rents during eviction.* If a tenant is appealing an eviction and the borrower refuses to accept rent payment during the appeal of the eviction, the tenant must escrow required rent payments to safeguard their occupancy, unless State or local laws specify otherwise.

(b) *Rents when tenants fail to recertify.* If a borrower can document that a tenant received a notice specifying a tenant recertification date and the tenant fails to comply by the specified date or fails to cooperate with verification or other procedures related to the tenant's recertification so that the tenant recertification cannot be completed by the recertification date, the borrower, within 10 days of the recertification date, shall give the tenant and the Agency written notification that:

(1) Termination proceedings are being initiated, in accordance with § 3560.159; and

(2) The tenant will be charged note rent until the tenant's lease is terminated.

(c) *Unauthorized assistance due to tenant recertification failure.* Any unauthorized assistance received because of the tenant's failure to be recertified will be collected in accordance with the provisions of subpart O of this part.

(d) *Rents when borrowers fail to recertify tenants.* If a borrower cannot document that a tenant received a recertification notice, and a tenant is not recertified within 12 months of the most recently executed tenant certification, tenants shall continue to make net tenant contributions to rent based on their most recent tenant certification and the borrower must remit to the Agency full overage as if the tenant was paying the note rent until the tenant is recertified.

(e) *Unauthorized assistance due to borrower recertification failure.* Any unauthorized assistance received as a result of the borrower's failure to recertify a tenant will be collected from the borrower in accordance with the provisions of subpart O of this part and may not be paid from housing project funds or funds collected from the tenant.

§ 3560.209 Rent collection.

(a) *General.* Borrowers must collect rents on a monthly basis and maintain a system for collecting and tracking rents.

(b) *Fees for late rent payments.* Borrowers may adopt a late fee schedule for overdue rental payments. Late fee schedules must be submitted to the Agency for approval as part of the housing project's management plan, be in accordance with State and local law, and consistent with the following requirements:

(1) A grace period of 10 days from the rental payment due date must be allowed for all tenants.

(2) The late fee must not exceed the higher of \$10 or an amount equal to 5 percent of the tenant's gross tenant contribution.

(3) Tenants receiving housing benefits from sources other than the Agency may be subject to the late rent fee requirements of the other funding sources.

§ 3560.210

(c) *Improperly advanced rents.* Improperly advanced interest credit or rental assistance is considered unauthorized assistance and is subject to recapture in accordance with subpart O of this part.

§ 3560.210 Special note rents (SNRs).

When a Plan II housing project is experiencing severe vacancies due to market conditions, the Agency may allow the borrower to charge an SNR, which is less than note rent but higher than basic rent, to attract or retain tenants whose income level would require them to pay special note rent. The requirements for requesting and receiving an SNR are established under § 3560.454.

§§ 3560.211–3560.249 [Reserved]

§ 3560.250 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575–0189. Public reporting burden for this collection of information is estimated to vary from 15 minutes to 18 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Subpart F—Rental Subsidies

§ 3560.251 General.

This subpart contains policies for borrower administration and tenant use of rental subsidies in Agency financed multi-family housing (MFH) projects.

§ 3560.252 Authorized rental subsidies.

(a) *General.* The purpose of rental subsidies is to reduce amounts paid by tenants for rent. Rental subsidies equal the difference between the approved shelter costs and tenant contributions as calculated in accordance with § 3560.203(a)(1).

7 CFR Ch. XXXV (1–1–07 Edition)

(b) *Forms of rental subsidies.* Rental subsidies may be in the form of:

- (1) Agency rental assistance;
- (2) HUD section 8 assistance, including project-based and vouchers;
- (3) Private rental subsidies; or
- (4) State or local government rental subsidies.

(c) *Multiple rent subsidies.* (1) Multiple types of rent subsidies may be used in the same MFH project.

(2) Tenants with subsidies from sources other than the Agency may be eligible for Agency rental assistance if the following conditions are met.

(i) The tenant qualifies for Agency rental assistance.

(ii) The rental subsidy the tenant is receiving is not a HUD voucher.

(iii) The rental subsidy being received by the tenant is less than the full amount of Agency rental assistance for which the tenant would qualify. In such cases, the Agency may provide the difference between the subsidy received by the tenant and the amount of Agency rental assistance for which the tenant qualifies.

(d) *Agency rental assistance (RA).* Agency RA is obligated to MFH projects on a rental unit basis. The obligation is composed of a number of rental units and associated dollar amounts of RA specified in a RA agreement with a borrower. The following types of Agency RA may be obligated to a housing project.

(1) *Renewal units.* RA may be assigned to a housing project to replace existing rental unit obligations because funds associated with the units have been fully disbursed.

(2) *New construction units.* RA may be provided in conjunction with initial Agency loans for construction or substantial rehabilitation of MFH projects.

(3) *Servicing units.* Additional RA may be provided to operational MFH projects as a part of the Agency's general loan servicing or preservation activities.

§ 3560.253 [Reserved]

§ 3560.254 Eligibility for rental assistance.

(a) *Eligible housing.* Housing projects eligible for Agency RA include the following types of projects.